

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at KNOXVILLE

RONALD L. DAVIS,

Plaintiff,

v.

3:07-cv-193

U.S. MARSHAL SERVICE
and JEFFREY HEDDEN,

Defendants.

MEMORANDUM AND ORDER

The court is in receipt of a *pro se* prisoner's civil rights complaint under 42 U.S.C. § 1983 and an application to proceed *in forma pauperis*. Pursuant to the Prison Litigation Reform Act, a prisoner cannot bring a new civil action or appeal a judgment in a civil action *in forma pauperis* if he or she has, three or more times in the past, while incarcerated, brought a civil action or appeal in federal court that was dismissed because it was frivolous, malicious, or failed to state a claim upon which relief may be granted. The only exception is if the prisoner is in "imminent danger of serious physical injury." 28 U.S.C. § 1915(g). The three-strikes provision includes cases that were dismissed prior to the effective date of the PLRA. *Wilson v. Yaklich*, 148 F.3d 596, 604 (6th Cir. 1998); *Tierney v. Kupers*, 128 F.3d 1310, 1311-12 (9th Cir. 1997).

While incarcerated, plaintiff has had at least three prior civil rights actions dismissed as frivolous. *See Davis v. Morris*, Civil Action No. 1:93-cv-120 (M.D. Tenn. July 22, 1993) (Order dismissing case as frivolous); *Davis v. Bradley*, Civil Action No. 3:94-cv-418 (M.D. Tenn. May 18, 1994) (Order dismissing case as frivolous); *Davis v. Bradley*, Civil Action No. 3:95-cv-448 (M.D. Tenn. May 2, 1995) (Order dismissing case as frivolous). *See also Davis v. Hayes*, Civil Action No. 2:01-cv-269 (E.D. Tenn. April 11, 2001) (order dismissing case *sua sponte* pursuant to the three-dismissal rule); *Davis v. Bowlen*, Civil Action No. 1:01-cv-174 (E.D. Tenn. July 13, 2001) (order dismissing case *sua sponte* pursuant to the three-dismissal rule).

Plaintiff does not allege that he is in "imminent danger of serious physical injury." Thus, in order to file this action, plaintiff must prepay the entire \$350.00 filing fee. Leave to proceed *in forma pauperis* is **DENIED**. Plaintiff's complaint shall be filed for the purpose of making a record and for statistical purposes, and shall be **DISMISSED WITHOUT PREJUDICE** pursuant to the three-strike rule of 28 U.S.C. § 1915(g).

E N T E R:

s/ Leon Jordan
United States District Judge